



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/568,753

07/14/2006

Robert Mebruer

Q93258

6671

23373 7590 07/29/2008
SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

EXAMINER

UBER, NATHAN C

ART UNIT

PAPER NUMBER

3622

MAIL DATE

DELIVERY MODE

07/29/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/568,753	Applicant(s) MEBRUER, ROBERT	
	Examiner NATHAN C. UBER	Art Unit 3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 May 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☒ Claim(s) 1 and 9 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of Claims

1. This action is in reply to the amendment filed on 5 May 2008.
2. Claims 1-26 are currently pending and have been examined.

Drawings

3. The drawings were objected to as failing to comply with 37 CFR 1.84(p)(5). Examiner thanks Applicant for making the necessary corrections and the objection is hereby rescinded.

Specification

4. The abstract of the disclosure was objected. Examiner thanks Applicant for making the necessary corrections and the objection is hereby rescinded.

Claim Objections

5. Claims 1, 2, 10, 17 and 18 are objected to because of informalities. Examiner thanks Applicant for making the necessary corrections and the objection is hereby rescinded.
6. Claims 1 and 9 are objected to because the amendments to these claims do not fully comply with the requirements of 37 CFR 1.121(c) because several corrections were not properly noted with underlines and strike-throughs; for example *wherein the detected consumer is...* in claim 1.

Claim Rejections - 35 USC § 112

7. Claims 1-26 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention because they were replete with limitations for which there was insufficient antecedent basis. Examiner thanks Applicant for making the necessary corrections and the rejection is hereby withdrawn.

Art Unit: 3622

8. Claims 7 and 21 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention because the terms *SMS*, *EMS*, or *MMS* were not defined. Although Applicant amended the specification, Applicant is advised that the claims must also be corrected. This rejection is therefore maintained.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
10. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:
1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
11. **Examiner's Note:** The Examiner has pointed out particular references contained in the prior art of record within the body of this action for the convenience of the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply. Applicant, in preparing the response, should consider fully the entire reference as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

Art Unit: 3622

12. Claims 1-6, 8, 9, 17-20 and 22-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Millikan (U.S. 2003/0105667) in view of Avallone et al. (U.S. 2002/0147642).

Claim 1:

Millikan, as shown, discloses the following limitations:

- *a plurality of retail locations having a detection device for detecting data uniquely related to consumer, in proximity to a location where merchandise is available to the detected consumer, without requiring interaction by the detected consumer (see at least ¶0021, "...a consumer detection and/or identification system..."),*
- *an output device for supplying a message to a detected consumer, providing specific offers available at the location to the consumer (see at least ¶0021, "...a plurality of message providers..."),*
- *wherein the detected consumers is therefore able to receive offers at the location without physical interaction on his or her part, and to avail himself or herself of the offers contained in the message supplied at the location (see at least ¶0026, "...system does not require active participation by the consumer..."),*
- *a first processor for generating a plurality of available offers and for identifying in a list specific ones of said plurality of offers that are applicable to a detected consumer based on data stored in a database relating to characteristics of the detected consumer, (see at least Figure 16, Item 20, see also ¶0029 generating targeted advertisements based on the characteristics of the customers identified/detected),*

Millikan does not specifically disclose the following limitations. Avallone, as shown, discloses the following limitations:

- *so that from the plurality of available offers, those specific offers, which relate to the detected consumer based on characteristics of the detected consumer*

are assembled and presented respectively to the individual consumer (see at least ¶0054, portable display units receive personalized information for display to customers),

- *a central station, comprising a second processor in communication with the first processor in each of said retail locations and operative to develop a target file of offers for at least one detected consumer and to provide said target file to at least said first processor (see at least ¶0059, "...the server's controller... enables the first server to access, read from, write to, and/or manipulate personalized information contained in one or more databases, communicate with a transmitter... communicate with one or more mainframe microprocessors... which are disposed locally or, more preferable, remotely from the commercial establishment" and ¶¶0058 and 0061 describing the data contained in databases on the servers),*
- *a retail server, comprising an inventory system and a consumer data base, in communication with each of said first processor and said second processor, and operative to provide price, inventory and consumer data for processing by said first and second processors (see at least ¶0061, server includes lists and databases of specials, promotional items, product locations, etcetera),*

It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the targeted advertising system of Millikan with the networking capabilities, including multiple servers, remote servers, and inventory databases, disclosed by Avallone because networking remote servers that host common use databases (i.e. information that is not particular to a specific store) such as customer information databases and advertising storage, as well as integrating computing systems with pertinent information such as inventory control systems, present numerous efficiencies to the Millikan invention such as avoiding duplication of equipment and data, improving data accuracy (for example no promotions for items that are out of stock) and

Art Unit: 3622

reducing system installation costs. Further It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the feature of directing personalized ads directly to the indented individual of the Avallone invention with the invention of Millikan because Millikan teaches that “a system for providing a message to the consumer that is targeted to the consumer” is “needed” (see at least ¶0010) and it would be “advantageous to provide a targeted message to a consumer at a point of purchase decision for the consumer” (see at least ¶0007) rather than at point of sale or outside the retail location.

Claims 2 and 18:

The combination Millikan/Avallone discloses the limitations as shown in the rejection above. Further Millikan, as shown, discloses the following limitations:

- *said retail location is a retail outlet, a mall, a food court or an event area (see at least ¶0021, “...establishment... such as a retail store...”).*

Claim 3:

The combination Millikan/Avallone discloses the limitations as shown in the rejection above. Further Millikan, as shown, discloses the following limitation:

- *the detection device comprises an RFID (radio frequency identification device) reader for reading an RFID tag carried by the consumer to identify a particular consumer (see at least ¶0024, “...detection... system may be a... field generator/detector that is operative to detect an identification card such as a transponder type card or a smart card...”, RFID readers are **Inherent** to smart card and transponder technology).*

Claim 4:

The combination Millikan/Avallone discloses the limitations as shown in the rejections above. Further Millikan, as shown, discloses the following limitation:

- *the RFID tag can provide a unique code which provides a unique identification of an individual consumer so that individual consumers can be*

identified and distinguished from one another (see at least ¶0024, "...card may include the consumer information thereon, or provide consumer identification data...").

Claim 5:

The combination Millikan/Avallone discloses the limitations as shown in the rejections above. Further Millikan, as shown, discloses the following limitation:

- *the RFID tag is contained in a card carried by the consumer (see at least ¶0024, "...an identification card such as a transponder type card or a smart card...").*

Claim 6:

The combination Millikan/Avallone discloses the limitations as shown in the rejection above. Further Millikan, as shown, discloses the following limitations:

- *the output device comprises a transmitter (see at least ¶0027, "...a message generator and transmitter..."),*
- *for wireless transmission of the message to the individual consumer's mobile telephone or PDA (see at least ¶0033, "...a wireless configuration... a PDA of the like...").*

Claim 8 and 22:

The combination Millikan/Avallone discloses the limitations as shown in the rejection above. Further Avallone, as shown, discloses the following limitation:

- *output device is a printer for printing a document containing the offer (see at least ¶0055, "... a printer for printing our, e.g., discount coupons..."),*

It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the targeted advertising system of Millikan with the device of Avallone to allow customers to print desired ads or coupons because electronic devices such as cellular phones and PDAs have limitations such as memory or power that limit a

customers accessibility to coupons provided thereon, a printing means helps a customer retain a coupon as well as free-up memory on his/her mobile device.

Claim 9:

The combination Millikan/Avallone discloses the limitations as shown in the rejection above. Further Millikan, as shown, discloses the following limitation:

- *the first processor receives a target file of offers for individual consumers from the central station, the target file of offers being based on data held at the central station relating to personal information associated with individual consumers* (see at least ¶0028, the message targeting system ascertains consumer characteristics from the identification system and storage, and ¶0029, uses the characteristics to select a message... the messages may be provided by outside sources such as vendors),

Millikan does not disclose a central station, or a remote server that serves multiple stores, however, Avallone, as shown, does:

- *central station* (see at least ¶0059, "...the server's controller... enables the first server to access, read from, write to, and/or manipulate personalized information contained in one or more databases, communicate with a transmitter... communicate with one or more mainframe microprocessors... which are disposed locally or, more preferably, remotely from the commercial establishment" and ¶¶0058 and 0061 describing the data contained in databases on the servers),

Examiner further notes that in ¶0060 the second server may be local or remote from the retail store and it contains databases described in ¶0061 (including customer, weekly specials, etc.) all of which are accessed by the in-store system whether the server itself is local or remote. Further the cited references teach that all of the servers may be remote or local to the retail store, therefore the processes that they perform may also occur remotely or locally.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the targeted advertising system of Millikan with the networking capabilities, including multiple servers and remote servers, disclosed by Avallone because networking remote servers hosting common use databases (i.e. information that is not particular to a specific store) such as customer information databases and advertising storage present numerous efficiencies to the Millikan invention such as avoiding duplication of equipment and data, improving data accuracy and reducing system installation costs.

Claim 17:

Millikan, as shown, discloses the following limitations:

- *at each of a plurality of locations detecting consumers in proximity to a location where merchandise is available to the consumers, without requiring interaction by the consumers (see at least ¶0026, "consumer detection and/or identification system does not require active participation by the customer..."),*
- *generating a plurality of available offers and identifying specific ones of said plurality of offers that are applicable to a detected consumer based on data stored in a database relating to characteristics of the detected consumer, from the plurality of available offers (see at least Figure 16, Item 20, see also ¶0029 generating targeted advertisements based on the characteristics of the customers identified/detected),*
- *outputting a message to a detected consumer providing offers available at the location to the consumer (see at least ¶0013, "...provides targeted advertisements to consumers... at a particular location"),*
- *wherein the detected consumers it therefore able to receive offers without physical interaction on his or her part, and to avail himself or herself of the*

Art Unit: 3622

offers contained in the message at the location (see at least ¶0026, "...system does not require active participation by the consumer..."),

Millikan does not specifically disclose the following limitations. Avallone, as shown, discloses the following limitations:

- *assembling those specific offers which relate to the detected consumer based on the characteristics of the detected consumer, and presenting said specific offers respectively to individual consumers (see at least ¶0054, portable display units receive personalized information for display to customers),*
- *at a central station, comprising a second processor in communication with the first processor in each of said retail locations, developing a target file of offers for at least one detected consumer and to provide said target file to at least said first processor (see at least ¶0059, "...the server's controller... enables the first server to access, read from, write to, and/or manipulate personalized information contained in one or more databases, communicate with a transmitter... communicate with one or more mainframe microprocessors... which are disposed locally or, more preferable, remotely from the commercial establishment" and ¶¶0058 and 0061 describing the data contained in databases on the servers),*
- *at a retail server, comprising an inventory system and a consumer data base, communicating with each of said first processor and said second processor, and providing price, inventory and consumer data for processing by said first and second processors (see at least ¶0061, server includes lists and databases of specials, promotional items, product locations, etcetera),*

It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the targeted advertising system of Millikan with the networking capabilities, including multiple servers, remote servers, and inventory databases,

Art Unit: 3622

disclosed by Avallone because networking remote servers that host common use databases (i.e. information that is not particular to a specific store) such as customer information databases and advertising storage, as well as integrating computing systems with pertinent information such as inventory control systems, present numerous efficiencies to the Millikan invention such as avoiding duplication of equipment and data, improving data accuracy (for example no promotions for items that are out of stock) and reducing system installation costs. Further It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the feature of directing personalized ads directly to the indented individual of the Avallone invention with the invention of Millikan because Millikan teaches that “a system for providing a message to the consumer that is targeted to the consumer” is “needed” (see at least ¶0010) and it would be “advantageous to provide a targeted message to a consumer at a point of purchase decision for the consumer” (see at least ¶0007) rather than at point of sale or outside the retail location.

Claim 19:

The combination Millikan/Avallone discloses the limitations as shown in the rejection above. Further Millikan, as shown, discloses the following limitations:

- *detecting consumers comprises detecting an RFID tag carried by the consumer with an RFID reader to identify a particular consumer* (see at least ¶0024, “...detection... system may be a... field generator/detector that is operative to detect an identification card such as a transponder type card or a smart card...”, RFID readers are **Inherent** to smart card and transponder technology).

Claim 20:

The combination Millikan/Avallone discloses the limitations as shown in the rejection above. Further Millikan, as shown, discloses the following limitations:

- *outputting the message comprises wireless transmission of the message to the individual consumer's mobile telephone or PDA (see at least ¶0033, message providers may communicate wirelessly and may include a PDA or "the like").*

Claim 23:

The combination Millikan/Avallone discloses the limitations as shown in the rejection above. Further Millikan, as shown, discloses the following limitations:

- *receiving a target file of offers for individual consumers (see at least ¶0029, "the message targeting system is operative to accept messages, modify messages... messages may be provided by outside sources...),*
- *the target offers being based on data held at the central station relating to personal information associated with individual consumers (see at least ¶0030, "a message is considered targeted in that it relates to the deemed characteristics of a majority of the consumers currently at the establishment..."),*

Millikan does not disclose a central station, or a remote server that serves multiple stores, however, Avallone, as shown, does:

- *from a central station (see at least ¶0059, "...the server's controller... enables the first server to access, read from, write to, and/or manipulate personalized information contained in one or more databases, communicate with a transmitter... communicate with one or more mainframe microprocessors... which are disposed locally or, more preferable, remotely from the commercial establishment" and ¶¶0058 and 0061 describing the data contained in databases on the servers).*

It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the targeted advertising system of Millikan with the networking capabilities, including multiple servers and remote servers, disclosed by Avallone

because networking remote servers hosting common use databases (i.e. information that is not particular to a specific store) such as customer information databases and advertising storage present numerous efficiencies to the Millikan invention such as avoiding duplication of equipment and data, improving data accuracy and reducing system installation costs.

Claim 24:

The combination Millikan/Avallone discloses the limitations as shown in the rejection above. Further Millikan, as shown, discloses the following limitation:

- *to an EPOS terminal so that offers contained in the file for a particular consumer are transmitted from the first server to the second server and then to the EPOS terminal so that offers contained in the list for a particular consumer are transmitted from the office server to the store server and then to the EPOS terminal so that when a consumer identifies himself or herself at the EPOS terminal, purchases made by the consumer are provided in accordance with the offers contained in the message to the consumer (see at least ¶0027, "retail terminals... used to consummate retail or purchase transactions" and ¶0032, "during checkout at a retail terminal"),*

Millikan does not disclose a central station, or a remote server that serves multiple stores, however, Avallone, as shown, does:

- *receiving the file at a first server transferring the file to a second server associated with the location (see at least ¶0060, "[t]he second server communicates with the first server..."),*

It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the targeted advertising system of Millikan with the networking capabilities, including multiple servers and remote servers, disclosed by Avallone because networking remote servers hosting common use databases (i.e. information that is not particular to a specific store) such as customer information databases and

Art Unit: 3622

advertising storage present numerous efficiencies to the Millikan invention such as avoiding duplication of equipment and data, improving data accuracy and reducing system installation costs.

Claim 25:

The combination Millikan/Avallone discloses the limitations as shown in the rejection above. Further Millikan, as shown, discloses the following limitations:

- *the consumer may identify himself or herself by displaying the message to a person at the checkout terminal, or by swiping a card which contains the user's identifying data at the EPOS terminal (see at least ¶0032, "...swiping of the customer card...").*

Claim 26:

The combination Millikan/Avallone discloses the limitations as shown in the rejections above. Further Millikan, as shown, discloses the following limitations:

- *compiling a database of information relating to the consumers so that offers applicable to individual consumers can be made based on the data held in the database and particular products which marketers wish to promote by way of offers to consumers so that the offers to consumers are matched with characteristics of the consumers, so that consumers are provided with messages containing offers applicable to that consumer and tailored specifically for that consumer (see at least ¶0027, "...storage medium is operative to store consumer data... both obtained in real time... and historical consumer data... consumer data is updates by purchase information..., and ¶0029, "[t]he messages are typically pre-recorded and retained in the storage").*

Art Unit: 3622

13. Claims 7, 10-16 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Millikan (U.S. 2003/0105667) in view of Avallone et al. (U.S. 2002/0147642) and further in view of **Official Notice**.

Claims 7 and 21:

The combination Millikan/Avallone discloses the limitations as shown in the rejections above. Millikan does not disclose the following limitation:

- *the message is an SMS, EMS or MMS message,*

However, Examiner takes **Official Notice** that it is old and well known in the art that messages sent to mobile phones and PDAs may be SMS, EMS or MMS. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to send text messages to a mobile phone or PDA rather than audio/video messages or in addition to audio/video data (see at least ¶0029) because text messages can be distributed faster and cheaper and require less memory for storage both on a store's servers and on a recipient's device.

Claim 10:

The combination Millikan/Avallone discloses the limitations as shown in the rejections above. Further, Millikan, as shown, discloses the following limitations:

- *an EPOS terminal connected with the second server so that offers contained in the list for a particular consumer are transmitted from the first server to the second server and then to the EPOS terminal so that when a consumer identifies himself or herself at the EPOS terminal, purchases made by the consumer are provided in accordance with the offers contained in the message to the consumer (see at least ¶0027, "retail terminals... used to consummate retail or purchase transactions" and ¶0032, "during checkout at a retail terminal").*

Further Examiner takes **Official Notice** that it is old and well known in the art to associate coupon and other customer incentive databases with a POS machine such that

Art Unit: 3622

coupons are applied or downloaded to the POS upon swiping a customer/loyalty card. Millikan does not disclose multiple servers as in the limitations below, however, Avallone, as shown, does:

- *the first processor comprises a first server for receiving the target file of offers (see at least ¶0059, "...the server's controller... enables the first server to access, read from, write to, and/or manipulate personalized information contained in one or more databases, communicate with a transmitter... communicate with one or more mainframe microprocessors... which are disposed locally or, more preferable, remotely from the commercial establishment"),*
- *a second server associated with the location being connected to the first server, and (see at least ¶0060, "[t]he second server communicates with the first server..."),*

Examiner takes **Official Notice** that it is old and well known in the art to network inventory databases (such as those relying on the UPC bar code information for product identification) with POS terminals in stores. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the targeted advertising system of Millikan with the networking capabilities, including multiple servers and remote servers, disclosed by Avallone and to further network a store inventory, POS and customer reward system because networking remote servers hosting common use databases (i.e. information that is not particular to a specific store) such as customer information databases and advertising storage with store specific databases and POS data (especially if they already exist in an establishment) present numerous efficiencies to the Millikan invention such as avoiding duplication of equipment and data, improving data accuracy and reducing system installation costs.

Claim 11:

The combination of Millikan/Avallone/**Official Notice** discloses the limitations as shown in the rejections above. Further, Millikan, as shown, discloses the following limitation:

- *the consumer identifies himself or herself by displaying the message to a person at the EPOS terminal, or by swiping a card which contains the user's identifying data at the EPOS terminal (see at least ¶0032, "...swiping of the customer card...").*

Claim 12:

The combination of Millikan/Avallone/**Official Notice** discloses the limitations as shown in the rejections above. Further, Millikan, as shown, discloses the following limitation:

- *the second server is also coupled to a retail server for obtaining data relating to the purchases made by particular customers (see at least ¶0027, the storage medium stores real time consumer data and historical consumer data such as purchase information obtained by "retail terminals").*

Claim 13:

The combination of Millikan/Avallone/**Official Notice** discloses the limitations as shown in the rejections above. Millikan does not disclose the following limitation. However, Avallone, as shown, does:

- *a second processor is located with the central station the second processor comprising a head office database connected to the retail server for receiving data from the retail server relating to purchases made by particular customers the head office database holding information relating to the consumers so that offers applicable to individual consumers can be made based on the data held in the database and particular products which marketers wish to promote by way of offers to consumers so that the offers to consumers are matched with characteristics of the consumers, so that consumers are provided with messages containing offers applicable to that consumer and tailored specifically for that consumer (see at least ¶0059,*

“...the server's controller... enables the first server to access, read from, write to, and/or manipulate personalized information contained in one or more databases, communicate with a transmitter... communicate with one or more mainframe microprocessors... which are disposed locally or, more preferable, remotely from the commercial establishment” and ¶¶0058 and 0061 describing the data contained in databases on the servers),

It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the targeted advertising system of Millikan with the networking capabilities, including multiple servers and remote servers, disclosed by Avallone because networking remote servers hosting common use databases (i.e. information that is not particular to a specific store) such as customer information databases and advertising storage present numerous efficiencies to the Millikan invention such as avoiding duplication of equipment and data, improving data accuracy and reducing system installation costs.

Claim 14:

The combination of Millikan/Avallone/**Official Notice** discloses the limitations as shown in the rejections above. Further, Millikan, as shown, discloses the following limitation:

- *the retailer server may also include an inventory system for maintaining inventory data relating to products available at the location and for providing that data to said database (see at least ¶0027, “includes a processor 20, a storage medium”),*

Millikan does not disclose *server*, however Examiner takes **Official Notice** that it is old and well known in the art to use a server as an electronic storage medium for electronic data. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to use a server for the storage medium because servers have greater memory/storage capacity than an ordinary computer and can be more cost

Art Unit: 3622

effective depending on the amount of data storage needed and the processing speed desired.

Claim 15:

The combination of Millikan/Avallone/**Official Notice** discloses the limitations as shown in the rejections above. Millikan does not disclose the following limitation. However, Avallone, as shown, does:

- *the retail server communicates with the second server for providing inventory data from the inventory system relating to products available for sale for use by the EPOS checkout during the purchase of products at the location (see at least ¶0060, "[t]he second server communicates with the first server..."),*

It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the targeted advertising system of Millikan with the networking capabilities, including multiple servers and remote servers, disclosed by Avallone because networking remote servers hosting common use databases (i.e. information that is not particular to a specific store) such as customer information databases and advertising storage present numerous efficiencies to the Millikan invention such as avoiding duplication of equipment and data, improving data accuracy and reducing system installation costs.

Claim 16:

The combination of Millikan/Avallone/**Official Notice** discloses the limitations as shown in the rejections above. Further, Millikan, as shown, discloses the following limitations:

- *the second processor further comprises an application server for producing the target file and transmitting the target file to the first server (see at least ¶0029, "[t]he message targeting system... distribute[s] [the message] to the message providers"),*

Art Unit: 3622

- *the first server including a first server database for maintaining a database of specific offers targeted to specific consumers (see at least ¶0029, “[t]he messages are typically pre-recorded and retained in the storage”).*

Response to Arguments

14. Applicant's arguments with respect to claims 1 and 17 have been considered but are moot in view of the new grounds of rejection. Please see the addition of Avallone to the rejection of the independent claims above.
15. With regard to Applicant's assertion regarding claim 9, Examiner further notes that in ¶0060 the second server may be local or remote from the retail store and it contains databases described in ¶0061 (including customer, weekly specials, etc.) all of which are accessed by the in-store system whether the server itself is local or remote. Further the cite references teach that all of the servers may be remote or local to the retail store, therefore the processes that they perform may also occur remotely or locally.

Conclusion

- 16.** Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
- 17.** A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Art Unit: 3622

- 18.** Any inquiry of a general nature or relating to the status of this application or concerning this communication or earlier communications from the Examiner should be directed to **Nathan C Uber** whose telephone number is **571.270.3923**. The Examiner can normally be reached on Monday-Friday, 9:30am-5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, **Eric Stamber** can be reached at **571.272.6724**.
- 19.** Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair> <<http://pair-direct.uspto.gov>>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866.217.9197** (toll-free).
- 20.** Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

P.O. Box 1450, Alexandria, VA 22313-1450

or faxed to **571-273-8300**.

- 21.** Hand delivered responses should be brought to the **United States Patent and Trademark Office Customer Service Window**:

Randolph Building

401 Dulany Street

Alexandria, VA 22314.

/Nathan C Uber/ Examiner, Art Unit 3622
22 July 2008

/Arthur Duran/

Primary Examiner, Art Unit 3622

7/22/2008